ESTTA Tracking number:

ESTTA552167 08/05/2013

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211251
Party	Defendant Sabertooth Motorcycles, LLC
Correspondence Address	SABERTOOTH MOTORCYCLES, LLC 26 LYMAN RD CHESTNUT HILL, MA 02467-2810 ben.daniels@sabertoothmotorcycles.com
Submission	Answer
Filer's Name	Ben Daniels
Filer's e-mail	ben.daniels@sabertoothmotorcycles.com
Signature	/Ben Daniels/
Date	08/05/2013
Attachments	Answer to Marvel's Opposition to Sabertooth Trademark Application.pdf(92059 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

)
Marvel Characters, Inc.)
) Opposition No. 91211251
Opposer,)
) Serial No. 85483515
V.)
) Mark: SABERTOOTH
)
Sabertooth Motorcycles LLC) Filing Date: November 30, 201
)
Applicant.)
)

RESPONSE TO OPPOSITION

On June 24, 2013, Marvel Characters, Inc., hereinafter referred to as "Opposer", filed a Notice of Opposition to Sabertooth Motorcycles, LLC's, hereinafter referred to as "Applicant", Trademark Application Serial No. 85483515 for the mark SABERTOOTH in Class 009. Opposer claims that it will to be damaged if Applicant's U.S. Application Serial No. 85483515 for the mark SABERTOOTH is allowed to register. Applicant vigorously disagrees with this contention and believes Opposer's claims are without merit. Applicant further believes that Opposer's Opposition is a textbook example of "Trademark Bullying," where a large company attempts to enforce Trademark rights beyond a reasonable interpretation of the scope of the rights granted to the Trademark holder.

Applicant's responses to the allegations contained in the Opposition are as follows:

Opposer and its Business

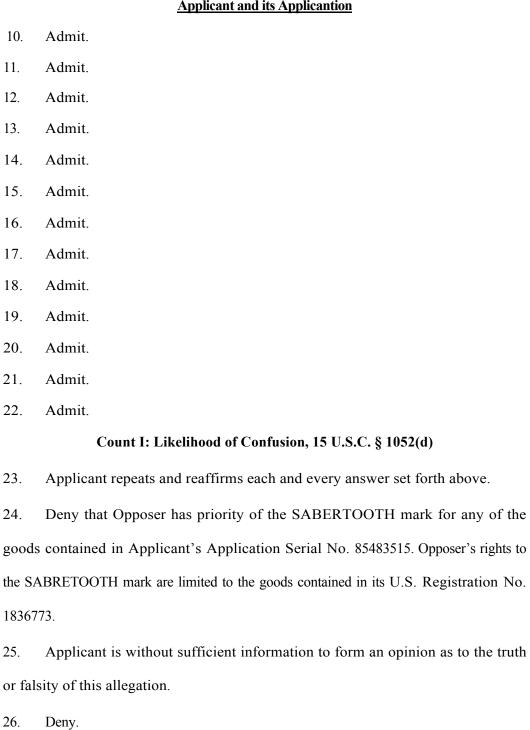
1. On information and belief, the Opposer is a wholly owned subsidiary of the

Walt Disney Company, beyond this Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

- 2. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.
- 3. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.
- 4. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Further, Applicant believes that how Opposer has used its other characters names and marks in general is irrelevant. The only relevant issue in this opposition is how Opposer has used its SABRETOOTH character.
- 5. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Further, Applicant believes that how Opposer has used its other characters names and marks with regard to merchandizing is irrelevant. The only relevant issue in this opposition is how Opposer has used its SABRETOOTH character in regard to merchandizing.
- 6. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Applicant notes that that to the best of its belief that at no time has Opposer ever attempted to obtain Trademark Registration for its SABRETOOTH mark for any use besides that which is contained in U.S. Registration No. 1836773 in class 16, which is for publications; namely, comic books and magazines and stories in illustrated form; trading cards.
- 7. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.
- 8. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.
- 9. Opposer's rights are limited to the goods and services contained within any

valid U.S. Trademark Registrations, beyond this Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

Applicant and its Applicantion



27.

Deny.

Count II: Void ab Initio

28. Applicant repeats and reaffirms each and every answer set forth above.

29. Deny. Applicant has used and continues to use the SABERTOOTH mark in

commerce and in connection with the goods listed in its SABERTOOTH

Application.

30. Deny. Applicant has used and continues to use the SABERTOOTH mark in

commerce and in connection with the goods listed in its SABERTOOTH

Application.

31. Deny. Applicant has used and continues to use the SABERTOOTH mark in

commerce and in connection with the goods listed in its SABERTOOTH

Application and the application should be allowed to register.

WHEREFORE, Applicant requests that Opposer's Opposition to Serial No.

85483515 be denied and that the Application proceed to Registration.

Respectfully Submitted Sabertooth Motorcycles, LLC

Date: July 28, 2013

By: <u>/Ben Daniels/</u>
Ben Daniels

Ben Daniels President & CEO

Sabertooth Motorcycles LLC

26 Lyman Rd.

Chestnut Hill, MA 02467

(864) 989-1957

CERTIFICATE OF SERVICE

I hereby certify that on this 28 day of July, 2013, a true copy of the foregoing paper was served by first-class mail, postage prepaid, upon counsel for Opposer:

Linda K. McLeod Kelly IP, LLP 1330 Connecticut Ave., N.W. Suite 300 Washington, DC 20036

> By: /Ben Daniels/ Ben Daniels President & CEO Sabertooth Motorcycles LLC 26 Lyman Rd. Chestnut Hill, MA 02467 (864) 989-1957